



ORIGINAL

FILED

IN COURT OF CRIMINAL APPEALS
OF THE STATE OF OKLAHOMA

THE COURT OF CRIMINAL APPEALS IN THE STATE OF OKLAHOMA

KENETH HAROLD TIBBETTS,)	JUN 28 2016
)	
Petitioner,)	MICHAEL S. RICHIE
)	CLERK
)	
)	Case No. C-2016-419
)	
STATE OF OKLAHOMA,)	
)	
Respondent.)	

PETITION FOR WRIT OF CERTIORARI

Petitioner, Kenneth Harold Tibbetts, appears by his attorney and shows this Court the following:

I.

On February 10, 2016, Petitioner entered in Beckham County District Court, Case No. CF-2015-188, pleas of Guilty and was sentenced for the following:

Count	Crime	Statute	Sentence
	Robbery with a Weapon	21 O.S.2011, § 801	Life
	Possession of Firearm After Former Conviction of a Felony	21 O.S.Supp. 2014, §1283(A)	10 years
	Kidnapping	21 O.S.Supp. 2012, § 741	Life
	Kidnapping	21O.S.Supp. 2012, § 741	Life
	Attempted Robbery with a Weapon	21 O.S.2011, § 801	Life
	Attempted Robbery with a Weapon	21 O.S.2011, § 801	Life

EXHIBIT 8

Possession of Firearm After Conviction or During Probation	21 O.S.Supp. 2012, § 1283(A)	10 years
--	---------------------------------	----------

The sentences in Counts 5 and 6 were ordered to be served concurrently each other, but consecutively to the sentences imposed in Count 1. The sentences in Counts 2, 3, 4 and 7 were ordered to be served concurrently each other and also concurrently with the sentence in Count 1.

Petitioner filed an Application to Withdraw his Plea of Guilty on April 6, 2016, stating the following reasons:

Defendant's plea was not entered knowingly and voluntarily, nor did he fully understand what the effect of entering a blind plea could mean for sentencing. Further, Mr. Tibbetts believes that the effects of his medical condition and the drugs used to treat his condition had impaired his mental capacity to comprehend what was happening at the time of the entry of his plea. Mr. Tibbetts believes that he should be evaluated by a mental health expert for the purpose of determining the effect this had on his decision to enter a blind plea lieu of going forward with a trial.

Shortly after the Application to Withdraw Plea was filed, a Brief was filed in support of Petitioner's Application to Withdraw Plea. The brief provided further details in support of the Application to Withdraw Plea including that Petitioner suffered from hemochromatosis/overload of iron, cirrhosis of the liver, and hepatitis C, which can combine to cause mental confusion and altered levels of consciousness, that Mr. Tibbetts says he was not in his right mind when the incidents resulting in the charges occurred, that an expert is needed to evaluate Petitioner to determine his condition and state of mind during the time

ounding these allegations, and that the state of mind of Mr. Tibbetts at time
cident is crucial to the determination of his guilty and/or punishment.

A hearing was held on the Application to Withdraw Plea, and the Petitioner's
lication was denied on May 11, 2016. Petitioner also alleges that he received
eective assistance of counsel at all proceedings in this case prior to this
corari appeal. Further, Petitioner alleges that plea counsel failed to properly
stigate his insanity defense, that plea counsel coerced Petitioner to plead with
ats that failure to enter a blind plea would anger that trial court against him
s detriment, that plea counsel promised Petitioner that all his charges would
un concurrently if he entered a blind plea, that prosecutorial misconduct
urred in this case, that double jeopardy precluded the State from prosecuting
f these seven charges as seven separate offenses against him, that the State
ld have insufficient evidence to prove these seven counts at a trial against
tioner, and finally that Mr. Tibbetts has a valid defense in this case.

II.

Written Notice of Intent to Appeal and Designation of Record were filed on
18, 2016.

III.

Petitioner is currently in the custody of the Oklahoma Department of
rections.

IV.

This Court has jurisdiction to review this conviction by virtue of 22
2011, § 1051(a).

V.

For the reasons stated above, Petitioner respectfully requests that the Order
of District Court denying Petitioner's Application to Withdraw Plea be reversed.

Respectfully submitted,

KENNETH HAROLD TIBBETTS

By: Virginia Sanders
Virginia Sanders
Bar Association No. 12641
Appellate Defense Counsel
P.O. Box 926
Norman, Oklahoma 73070
(405) 801-2727
ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

This is to certify that on June 28, 2016, a true and correct copy of the
going Petition For Writ Of Certiorari was served upon the Attorney General by
mailing a copy with the Clerk of the Court of Criminal Appeals for submission to
the Attorney General, and was caused to be mailed, via United States Postal
Service, postage pre-paid, to Petitioner and District Attorney at the addresses set
below, on the date of filing or the following business day.

Kenneth Harold Tibbetts, DOC#122414
Washington Assessment/Reception Ctr.
Box 260
Washington, Oklahoma 73051

District Attorney
Beckham County Courthouse
P.O. Box 520
Sayre, Oklahoma 73662

Virginia Sanders
Virginia Sanders

IN THE DISTRICT COURT OF BECKHAM COUNTY, STATE OF OKLAHOMA

E OF OKLAHOMA

Plaintiff(s)

BECKHAM COUNTY
FILED

MS. ANGELA C. MARSEE

Attorney(s) for Plaintiff(s)

--vs--

MAY 11 2016 Case No. CF-2015-00188

ETH HAROLD TIBBETTS

Defendant BY

DONNA HOWELL, COURT CLERK
AM DEPUTY

MR. RICHARD YOHN

Attorney(s) for Defendant(s)

Info: MERITS

SUMMARY ORDER

: 05-11-2016

Judge: HONORABLE DOUG HAUGHT

Court Reporter:

ORDER MINUTE
APPEARS W/ATTY R. YOHN ; STATE BY DA A. MARSEE &
ADA. DEFT'S MOTION TO WITHDRAW GUILTY PLEA IS
ARGUED AND OVERRULED. DH

S/ DOUG HAUGHT

JUDGE

I, DONNA HOWELL, Court Clerk for Beckham
County Oklahoma hereby certify that the foregoing is
a true correct and complete copy of the instrument
herewith set out as appears of record in District Court
Clerk's Office of Beckham County, Oklahoma.

this 14th day of June 2016

DONNA HOWELL, Court Clerk

BY

AM DEPUTY